

Introduced by Committee on Revenue and Taxation (Oropeza (Chair), Alquist, Cogdill, Harman, Machado, Runner, Scott, and Wiggins)

March 14, 2007

An act to amend Sections 63.1, 69.5, and 215.1 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1045, as introduced, Committee on Revenue and Taxation. Property taxation.

(1) The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975–76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. The California Constitution and existing property tax law exclude from a "change in ownership" specified property transfers, including transfers of a principal residence, between parents and their children and from grandparents to their grandchildren, as provided. For purposes of these exclusions, existing property tax law defines a "principal residence" as a dwelling that has been granted either the homeowners' property tax exemption or the disabled veterans' property tax exemption. For purposes of these exclusions, existing property tax law also defines an "eligible transferee" as a parent, child, or grandchild of an eligible transferor.

This bill would clarify the definition of "principal residence," for purposes of these change in ownership exclusions, to instead provide that the dwelling be eligible for either the homeowners' or disabled

veterans' property tax exemption because the transferor owned and occupied the dwelling as a principal residence. This bill would also correct an erroneous reference to clarify that an "eligible transferee" does not include a grandparent.

(2) The California Constitution and existing property tax law authorize taxpayers that meet certain conditions to transfer the base year value, as defined, of property to replacement property. Existing law requires a taxpayer that seeks to transfer the base year value of property to replacement property to file a claim for this transfer, as specified. Existing law provides that this claim is not a public document and is not subject to public inspection, but shall be available for inspection by the transferee and the transferor, their respective spouse, legal representative, and the executor or administrator of their estate.

This bill would replace the terms transferee and transferor with the term claimant. This bill would also require the claim to be available for inspection by the trustee of a trust in which the claimant or the claimant's spouse is a present beneficiary.

(3) Existing property tax law establishes a veterans' organization exemption. Existing law prohibits the county assessor from approving a claim for the veterans' organization exemption until the claimant has received an organizational clearance certificate, as specified, from the State Board of Equalization. Existing law requires board staff to issue an organizational clearance certificate to an entity that qualifies for the veterans' organization exemption.

This bill would require an organization that files a claim for the veterans' organization exemption to file with the assessor a valid organizational clearance certificate, as specified.

(4) By changing the manner in which county officials process claims for the veterans' exemption and base year value transfers, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 63.1 of the Revenue and Taxation Code is amended to read:

63.1. (a) Notwithstanding any other provision of this chapter, a change in ownership shall not include the following purchases or transfers for which a claim is filed pursuant to this section:

(1) The purchase or transfer of real property which is the principal residence of an eligible transferor in the case of a purchase or transfer between parents and their children.

(2) The purchase or transfer of the first one million dollars (\$1,000,000) of full cash value of all other real property of an eligible transferor in the case of a purchase or transfer between parents and their children.

(3) (A) Subject to subparagraph (B), the purchase or transfer of real property described in paragraphs (1) and (2) of subdivision (a) occurring on or after March 27, 1996, between grandparents and their grandchild or grandchildren, if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer. Notwithstanding any other provision of law, for the lien date for the ~~2006-07~~ 2006-07 fiscal year and each fiscal year thereafter, in determining whether “all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer,” a son-in-law or daughter-in-law of the grandparent that is a stepparent to the grandchild need not be deceased on the date of the transfer.

(B) A purchase or transfer of a principal residence shall not be excluded pursuant to subparagraph (A) if the transferee grandchild or grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1) of subdivision (a). The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (2) of subdivision (a) and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence shall be included in applying, for purposes of paragraph

(2) of subdivision (a), the one-million-dollar (\$1,000,000) full cash value limit specified in paragraph (2) of subdivision (a).

(b) (1) For purposes of paragraph (1) of subdivision (a), “principal residence” means a dwelling ~~for which~~ *that is eligible for a homeowners’ exemption or a disabled veterans’ residence exemption has been granted in the name of the eligible transferor as a result of the transferor’s ownership and occupation of the dwelling as a principal residence.* “Principal residence” includes only that portion of the land underlying the principal residence that consists of an area of reasonable size that is used as a site for the residence.

(2) For purposes of paragraph (2) of subdivision (a), the one-million-dollar (\$1,000,000) exclusion shall apply separately to each eligible transferor with respect to all purchases by and transfers to eligible transferees on and after November 6, 1986, of real property, other than the principal residence, of that eligible transferor. The exclusion shall not apply to any property in which the eligible transferor’s interest was received through a transfer, or transfers, excluded from change in ownership by the provisions of either subdivision (f) of Section 62 or subdivision (b) of Section 65, unless the transferor qualifies as an original transferor under subdivision (b) of Section 65. In the case of any purchase or transfer subject to this paragraph involving two or more eligible transferors, the transferors may elect to combine their separate one-million-dollar (\$1,000,000) exclusions and, upon making that election, the combined amount of their separate exclusions shall apply to any property jointly sold or transferred by the electing transferors, provided that in no case shall the amount of full cash value of real property of any one eligible transferor excluded under this election exceed the amount of the transferor’s separate unused exclusion on the date of the joint sale or transfer.

(c) As used in this section:

(1) “Purchase or transfer between parents and their children” means either a transfer from a parent or parents to a child or children of the parent or parents or a transfer from a child or children to a parent or parents of the child or children. For purposes of this section, the date of any transfer between parents and their children under a will or intestate succession shall be the date of the decedent’s death, if the decedent died on or after November 6, 1986.

(2) “Purchase or transfer of real property between grandparents and their grandchild or grandchildren” means a purchase or transfer on or after March 27, 1996, from a grandparent or grandparents to a grandchild or grandchildren if all of the parents of that grandchild or those grandchildren who qualify as the children of the grandparents are deceased as of the date of the transfer. For purposes of this section, the date of any transfer between grandparents and their grandchildren under a will or by intestate succession shall be the date of the decedent’s death. Notwithstanding any other provision of law, for the lien date for the ~~2006-07~~ 2006–07 fiscal year and each fiscal year thereafter, in determining whether “all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer,” a son-in-law or daughter-in-law of the grandparent that is a stepparent to the grandchild need not be deceased on the date of the transfer.

(3) “Children” means any of the following:

(A) Any child born of the parent or parents, except a child, as defined in subparagraph (D), who has been adopted by another person or persons.

(B) Any stepchild of the parent or parents and the spouse of that stepchild while the relationship of stepparent and stepchild exists. For purposes of this paragraph, the relationship of stepparent and stepchild shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.

(C) Any son-in-law or daughter-in-law of the parent or parents. For the purposes of this paragraph, the relationship of parent and son-in-law or daughter-in-law shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law.

(D) Any child adopted by the parent or parents pursuant to statute, other than an individual adopted after reaching the age of 18 years.

(4) “Grandchild” or “grandchildren” means any child or children of the child or children of the grandparent or grandparents.

(5) “Full cash value” means full cash value, as defined in Section 2 of Article XIII A of the California Constitution and Section 110.1, with any adjustments authorized by those sections, and the full value of any new construction in progress, determined as of the date immediately prior to the date of a purchase by or transfer to an eligible transferee of real property subject to this section.

(6) “Eligible transferor” means a grandparent, parent, or child of an eligible transferee.

(7) “Eligible transferee” means a parent, child, or grandchild of an eligible transferor.

(8) “Real property” means real property as defined in Section 104. Real property does not include any interest in a legal entity.

(9) “Transfer” includes, and is not limited to, any transfer of the present beneficial ownership of property from an eligible transferor to an eligible transferee through the medium of an inter vivos or testamentary trust.

(10) “Social security number” also includes a taxpayer identification number issued by the Internal Revenue Service in the case in which the taxpayer is a foreign national who cannot obtain a social security number.

(d) (1) The exclusions provided for in subdivision (a) shall not be allowed unless the eligible transferee, the transferee’s legal representative, or the executor or administrator of the transferee’s estate files a claim with the assessor for the exclusion sought and furnishes to the assessor each of the following:

(A) A written certification by the transferee, the transferee’s legal representative, or the executor or administrator of the transferee’s estate, signed and made under penalty of perjury that the transferee is a ~~grandparent~~, parent, child, or grandchild of the transferor and that the transferor is his or her parent, child, or grandparent. In the case of a grandparent-grandchild transfer, the written certification shall also include a certification that all the parents of the grandchild or grandchildren who qualify as children of the grandparents were deceased as of the date of the purchase or transfer and that the grandchild or grandchildren did or did not receive a principal residence excludable under paragraph (1) of subdivision (a) from the deceased parents, and that the grandchild or grandchildren did or did not receive real property other than a principal residence excludable under paragraph (2) of subdivision (a) from the deceased parents. The claimant shall provide legal

1 substantiation of any matter certified pursuant to this subparagraph
2 at the request of the county assessor.

3 (B) A written certification by the transferor, the transferor's
4 legal representative, or the executor or administrator of the
5 transferor's estate, signed and made under penalty of perjury that
6 the transferor is a grandparent, parent, or child of the transferee
7 and that the transferor is seeking the exclusion under this section
8 and will not file a claim to transfer the base year value of the
9 property under Section 69.5.

10 (C) A written certification shall also include either or both of
11 the following:

12 (i) If the purchase or transfer of real property includes the
13 purchase or transfer of residential real property, a certification that
14 the residential real property is or is not the transferor's principal
15 residence.

16 (ii) If the purchase or transfer of real property includes the
17 purchase or transfer of real property other than the transferor's
18 principal residence, a certification that other real property of the
19 transferor that is subject to this section has or has not been
20 previously sold or transferred to an eligible transferee, the total
21 amount of full cash value, as defined in subdivision (c), of any
22 real property subject to this section that has been previously sold
23 or transferred by that transferor to eligible transferees, the location
24 of that real property, the social security number of each eligible
25 transferor, and the names of the eligible transferees of that property.

26 (D) If there are multiple transferees, the certification and
27 signature may be made by any one of the transferees, if both of
28 the following conditions are met:

29 (i) The transferee has actual knowledge that, and the certification
30 signed by the transferee states that, all of the transferees are eligible
31 transferees within the meaning of this section.

32 (ii) The certification is signed by the transferee as a true
33 statement made under penalty of perjury.

34 (2) If the full cash value of the real property purchased by or
35 transferred to the transferee exceeds the permissible exclusion of
36 the transferor or the combined permissible exclusion of the
37 transferors, in the case of a purchase or transfer from two or more
38 joint transferors, taking into account any previous purchases by
39 or transfers to an eligible transferee from the same transferor or
40 transferors, the transferee shall specify in his or her claim the

1 amount and the allocation of the exclusion he or she is seeking.
2 Within any appraisal unit, as determined in accordance with
3 subdivision (d) of Section 51 by the assessor of the county in which
4 the real property is located, the exclusion shall be applied only on
5 a pro rata basis, however, and shall not be applied to a selected
6 portion or portions of the appraisal unit.

7 (e) (1) The State Board of Equalization shall design the form
8 for claiming eligibility. Except as provided in paragraph (2), any
9 claim under this section shall be filed:

10 (A) For transfers of real property between parents and their
11 children occurring prior to September 30, 1990, within three years
12 after the date of the purchase or transfer of real property for which
13 the claim is filed.

14 (B) For transfers of real property between parents and their
15 children occurring on or after September 30, 1990, and for the
16 purchase or transfer of real property between grandparents and
17 their grandchildren occurring on or after March 27, 1996, within
18 three years after the date of the purchase or transfer of real property
19 for which the claim is filed, or prior to transfer of the real property
20 to a third party, whichever is earlier.

21 (C) Notwithstanding subparagraphs (A) and (B), a claim shall
22 be deemed to be timely filed if it is filed within six months after
23 the date of mailing of a notice of supplemental or escape
24 assessment, issued as a result of the purchase or transfer of real
25 property for which the claim is filed.

26 (2) In the case in which the real property subject to purchase or
27 transfer has not been transferred to a third party, a claim for
28 exclusion under this section that is filed subsequent to the
29 expiration of the filing periods set forth in paragraph (1) shall be
30 considered by the assessor, subject to all of the following
31 conditions:

32 (A) Any exclusion granted pursuant to that claim shall apply
33 commencing with the lien date of the assessment year in which
34 the claim is filed.

35 (B) Under any exclusion granted pursuant to that claim, the
36 adjusted full cash value of the subject real property in the
37 assessment year described in subparagraph (A) shall be the adjusted
38 base year value of the subject real property in the assessment year
39 in which the excluded purchase or transfer took place, factored to

1 the assessment year described in subparagraph (A) for both of the
2 following:

3 (i) Inflation as annually determined in accordance with
4 paragraph (1) of subdivision (a) of Section 51.

5 (ii) Any subsequent new construction occurring with respect to
6 the subject real property.

7 (3) (A) Unless otherwise expressly provided, the provisions of
8 this subdivision shall apply to any purchase or transfer of real
9 property that occurred on or after November 6, 1986.

10 (B) Paragraph (2) shall apply to purchases or transfers between
11 parents and their children that occurred on or after November 6,
12 1986, and to purchases or transfers between grandparents and their
13 grandchildren that occurred on or after March 27, 1996.

14 (4) For purposes of this subdivision, a transfer of real property
15 to a parent or child of the transferor shall not be considered a
16 transfer to a third party.

17 (f) The assessor may report quarterly to the State Board of
18 Equalization all purchases or transfers, other than purchases or
19 transfers involving a principal residence, for which a claim for
20 exclusion is made pursuant to subdivision (d). Each report shall
21 contain the assessor's parcel number for each parcel for which the
22 exclusion is claimed, the amount of each exclusion claimed, the
23 social security number of each eligible transferor, and any other
24 information the board may require in order to monitor the
25 one-million-dollar (\$1,000,000) limitation in paragraph (2) of
26 subdivision (a). In recognition of the state and local interests served
27 by the action made optional in this subdivision, the Legislature
28 encourages the assessor to continue taking the action formerly
29 mandated by this subdivision.

30 (g) This section shall apply to both voluntary transfers and
31 transfers resulting from a court order or judicial decree. Nothing
32 in this subdivision shall be construed as conflicting with paragraph
33 (1) of subdivision (c) or the general principle that transfers by
34 reason of death occur at the time of death.

35 (h) (1) Except as provided in paragraph (2), this section shall
36 apply to purchases and transfers of real property completed on or
37 after November 6, 1986, and shall not be effective for any change
38 in ownership, including a change in ownership arising on the date
39 of a decedent's death, that occurred prior to that date.

(2) This section shall apply to purchases or transfers of real property between grandparents and their grandchildren occurring on or after March 27, 1996, and, with respect to purchases or transfers of real property between grandparents and their grandchildren, shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.

(i) A claim filed under this section is not a public document and is not subject to public inspection, except that a claim shall be available for inspection by the transferee and the transferor or their respective spouse, the transferee's legal representative, the transferor's legal representative, and the executor or administrator of the transferee's or transferor's estate.

SEC. 2. Section 69.5 of the Revenue and Taxation Code is amended to read:

69.5. (a) (1) Notwithstanding any other provision of law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, any person over the age of 55 years, or any severely and permanently disabled person, who resides in property that is eligible for the homeowners' exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 may transfer, subject to the conditions and limitations provided in this section, the base year value of that property to any replacement dwelling of equal or lesser value that is located within the same county and is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that the base year value of the original property shall not be transferred to the replacement dwelling until the original property is sold.

(2) Notwithstanding the limitation in paragraph (1) requiring that the original property and the replacement dwelling be located in the same county, this limitation shall not apply in any county in which the county board of supervisors, after consultation with local affected agencies within the boundaries of the county, adopts an ordinance making the provisions of paragraph (1) also applicable to situations in which replacement dwellings are located in that county and the original properties are located in another county within this state. The authorization contained in this paragraph shall be applicable in a county only if the ordinance adopted by

1 the board of supervisors complies with all of the following
2 requirements:

3 (A) It is adopted only after consultation between the board of
4 supervisors and all other local affected agencies within the county's
5 boundaries.

6 (B) It requires that all claims for transfers of base year value
7 from original property located in another county be granted if the
8 claims meet the applicable requirements of both subdivision (a)
9 of Section 2 of Article XIII A of the California Constitution and
10 this section.

11 (C) It requires that all base year valuations of original property
12 located in another county and determined by its assessor be
13 accepted in connection with the granting of claims for transfers of
14 base year value.

15 (D) It provides that its provisions are operative for a period of
16 not less than five years.

17 (E) The ordinance specifies the date on and after which its
18 provisions shall be applicable. However, the date specified shall
19 not be earlier than November 9, 1988. The specified applicable
20 date may be a date earlier than the date the county adopts the
21 ordinance.

22 (b) In addition to meeting the requirements of subdivision (a),
23 any person claiming the property tax relief provided by this section
24 shall be eligible for that relief only if the following conditions are
25 met:

26 (1) The claimant is an owner and a resident of the original
27 property either at the time of its sale, or at the time when the
28 original property was substantially damaged or destroyed by
29 misfortune or calamity, or within two years of the purchase or new
30 construction of the replacement dwelling.

31 (2) The original property is eligible for the homeowners'
32 exemption, as the result of the claimant's ownership and occupation
33 of the property as his or her principal residence, either at the time
34 of its sale, or at the time when the original property was
35 substantially damaged or destroyed by misfortune or calamity, or
36 within two years of the purchase or new construction of the
37 replacement dwelling.

38 (3) At the time of the sale of the original property, the claimant
39 or the claimant's spouse who resides with the claimant is at least
40 55 years of age, or is severely and permanently disabled.

1 (4) At the time of claiming the property tax relief provided by
2 subdivision (a), the claimant is an owner of a replacement dwelling
3 and occupies it as his or her principal place of residence and, as a
4 result thereof, the property is currently eligible for the homeowners'
5 exemption or would be eligible for the exemption except that the
6 property is already receiving the exemption because of an
7 exemption claim filed by the previous owner.

8 (5) The original property of the claimant is sold by him or her
9 within two years of the purchase or new construction of the
10 replacement dwelling. For purposes of this paragraph, the purchase
11 or new construction of the replacement dwelling includes the
12 purchase of that portion of land on which the replacement building,
13 structure, or other shelter constituting a place of abode of the
14 claimant will be situated and that, pursuant to paragraph (3) of
15 subdivision (g), constitutes a part of the replacement dwelling.

16 (6) The replacement dwelling, including that portion of land on
17 which it is situated that is specified in paragraph (5), is located
18 entirely within the same county as the claimant's original property.

19 (7) The claimant has not previously been granted, as a claimant,
20 the property tax relief provided by this section, except that this
21 paragraph shall not apply to any person who becomes severely
22 and permanently disabled subsequent to being granted, as a
23 claimant, the property tax relief provided by this section for any
24 person over the age of 55 years. In order to prevent duplication of
25 claims under this section within this state, county assessors shall
26 report quarterly to the State Board of Equalization that information
27 from claims filed in accordance with subdivision (f) and from
28 county records as is specified by the board necessary to identify
29 fully all claims under this section allowed by assessors and all
30 claimants who have thereby received relief. The board may specify
31 that the information include all or a part of the names and social
32 security numbers of claimants and their spouses and the identity
33 and location of the replacement dwelling to which the claim
34 applies. The information may be required in the form of data
35 processing media or other media and in a format that is compatible
36 with the recordkeeping processes of the counties and the auditing
37 procedures of the state.

38 (c) The property tax relief provided by this section shall be
39 available if the original property or the replacement dwelling, or

1 both, of the claimant includes, but is not limited to, either of the
2 following:

3 (1) A unit or lot within a cooperative housing corporation, a
4 community apartment project, a condominium project, or a planned
5 unit development. If the unit or lot constitutes the original property
6 of the claimant, the assessor shall transfer to the claimant's
7 replacement dwelling only the base year value of the claimant's
8 unit or lot and his or her share in any common area reserved as an
9 appurtenance of that unit or lot. If the unit or lot constitutes the
10 replacement dwelling of the claimant, the assessor shall transfer
11 the base year value of the claimant's original property only to the
12 unit or lot of the claimant and any share of the claimant in any
13 common area reserved as an appurtenance of that unit or lot.

14 (2) A manufactured home or a manufactured home and any land
15 owned by the claimant on which the manufactured home is situated.
16 For purposes of this paragraph, "land owned by the claimant"
17 includes a pro rata interest in a resident-owned mobilehome park
18 that is assessed pursuant to subdivision (b) of Section 62.1.

19 (A) If the manufactured home or the manufactured home and
20 the land on which it is situated constitutes the claimant's original
21 property, the assessor shall transfer to the claimant's replacement
22 dwelling either the base year value of the manufactured home or
23 the base year value of the manufactured home and the land on
24 which it is situated, as appropriate. If the manufactured home
25 dwelling that constitutes the original property of the claimant
26 includes an interest in a resident-owned mobilehome park, the
27 assessor shall transfer to the claimant's replacement dwelling the
28 base year value of the claimant's manufactured home and his or
29 her pro rata portion of the real property of the park. No transfer of
30 base year value shall be made by the assessor of that portion of
31 land that does not constitute a part of the original property, as
32 provided in paragraph (4) of subdivision (g).

33 (B) If the manufactured home or the manufactured home and
34 the land on which it is situated constitutes the claimant's
35 replacement dwelling, the assessor shall transfer the base year
36 value of the claimant's original property either to the manufactured
37 home or the manufactured home and the land on which it is
38 situated, as appropriate. If the manufactured home dwelling that
39 constitutes the replacement dwelling of the claimant includes an
40 interest in a resident-owned mobilehome park, the assessor shall

1 transfer the base year value of the claimant's original property to
2 the manufactured home of the claimant and his or her pro rata
3 portion of the park. No transfer of base year value shall be made
4 by the assessor to that portion of land that does not constitute a
5 part of the replacement dwelling, as provided in paragraph (3) of
6 subdivision (g).

7 This subdivision shall be subject to the limitations specified in
8 subdivision (d).

9 (d) The property tax relief provided by this section shall be
10 available to a claimant who is the coowner of the original property,
11 as a joint tenant, a tenant in common, or a community property
12 owner, subject to the following limitations:

13 (1) If a single replacement dwelling is purchased or newly
14 constructed by all of the coowners and each coowner retains an
15 interest in the replacement dwelling, the claimant shall be eligible
16 under this section whether or not any or all of the remaining
17 coowners would otherwise be eligible claimants.

18 (2) If two or more replacement dwellings are separately
19 purchased or newly constructed by two or more coowners and
20 more than one coowner would otherwise be an eligible claimant,
21 only one coowner shall be eligible under this section. These
22 coowners shall determine by mutual agreement which one of them
23 shall be deemed eligible.

24 (3) If two or more replacement dwellings are separately
25 purchased or newly constructed by two coowners who held the
26 original property as community property, only the coowner who
27 has attained the age of 55 years, or is severely and permanently
28 disabled, shall be eligible under this section. If both spouses are
29 over 55 years of age, they shall determine by mutual agreement
30 which one of them is eligible.

31 In the case of coowners whose original property is a multiunit
32 dwelling, the limitations imposed by paragraphs (2) and (3) shall
33 only apply to coowners who occupied the same dwelling unit
34 within the original property at the time specified in paragraph (2)
35 of subdivision (b).

36 (e) Upon the sale of original property, the assessor shall
37 determine a new base year value for that property in accordance
38 with subdivision (a) of Section 2 of Article XIII A of the California
39 Constitution and Section 110.1, whether or not a replacement

1 dwelling is subsequently purchased or newly constructed by the
2 former owner or owners of the original property.

3 This section shall not apply unless the transfer of the original
4 property is a change in ownership that either (1) subjects that
5 property to reappraisal at its current fair market value in accordance
6 with Section 110.1 or 5803 or (2) results in a base year value
7 determined in accordance with this section, Section 69, or Section
8 69.3 because the property qualifies under this section, Section 69,
9 or Section 69.3 as a replacement dwelling or property.

10 (f) (1) A claimant shall not be eligible for the property tax relief
11 provided by this section unless the claimant provides to the
12 assessor, on a form that shall be designed by the State Board of
13 Equalization and that the assessor shall make available upon
14 request, the following information:

15 (A) The name and social security number of each claimant and
16 of any spouse of the claimant who is a record owner of the
17 replacement dwelling.

18 (B) Proof that the claimant or the claimant's spouse who resided
19 on the original property with the claimant was, at the time of its
20 sale, at least 55 years of age, or severely and permanently disabled.
21 Proof of severe and permanent disability shall be considered a
22 certification, signed by a licensed physician and surgeon of
23 appropriate specialty, attesting to the claimant's severely and
24 permanently disabled condition. In the absence of available proof
25 that a person is over 55 years of age, the claimant shall certify
26 under penalty of perjury that the age requirement is met. In the
27 case of a severely and permanently disabled claimant either of the
28 following shall be submitted:

29 (i) A certification, signed by a licensed physician or surgeon of
30 appropriate specialty that identifies specific reasons why the
31 disability necessitates a move to the replacement dwelling and the
32 disability-related requirements, including any locational
33 requirements, of a replacement dwelling. The claimant shall
34 substantiate that the replacement dwelling meets disability-related
35 requirements so identified and that the primary reason for the move
36 to the replacement dwelling is to satisfy those requirements. If the
37 claimant, or the claimant's spouse or guardian, so declares under
38 penalty of perjury, it shall be rebuttably presumed that the primary
39 purpose of the move to the replacement dwelling is to satisfy
40 identified disability-related requirements.

(ii) The claimant's substantiation that the primary purpose of the move to the replacement dwelling is to alleviate financial burdens caused by the disability. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move is to alleviate the financial burdens caused by the disability.

(C) The address and, if known, the assessor's parcel number of the original property.

(D) The date of the claimant's sale of the original property and the date of the claimant's purchase or new construction of a replacement dwelling.

(E) A statement by the claimant that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

(F) Any claim under this section shall be filed within three years of the date the replacement dwelling was purchased or the new construction of the replacement dwelling was completed subject to subdivision (k) or (m).

(2) A claim for transfer of base year value under this section that is filed after the expiration of the filing period set forth in subparagraph (F) of paragraph (1) shall be considered by the assessor, subject to all of the following conditions:

(A) Any base year value transfer granted pursuant to that claim shall apply commencing with the lien date of the assessment year in which the claim is filed.

(B) The full cash value of the replacement property in the assessment year described in subparagraph (A) shall be the base year value of the real property in the assessment year in which the base year value was transferred, factored to the assessment year described in subparagraph (A) for both of the following:

(i) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.

(ii) Any subsequent new construction occurring with respect to the subject real property that does not qualify for property tax relief pursuant to the criteria set forth in subparagraphs (A) and (B) of paragraph (4) of subdivision (h).

(g) For purposes of this section:

(1) "Person over the age of 55 years" means any person or the spouse of any person who has attained the age of 55 years or older at the time of the sale of the original property.

1 (2) “Base year value of the original property” means its base
2 year value, as determined in accordance with Section 110.1, with
3 the adjustments permitted by subdivision (b) of Section 2 of Article
4 XIII A of the California Constitution and subdivision (f) of Section
5 110.1, determined as of the date immediately prior to the date that
6 the original property is sold by the claimant, or in the case where
7 the original property has been substantially damaged or destroyed
8 by misfortune or calamity and the owner does not rebuild on the
9 original property, determined as of the date immediately prior to
10 the misfortune or calamity.

11 If the replacement dwelling is purchased or newly constructed
12 after the transfer of the original property, “base year value of the
13 original property” also includes any inflation factor adjustments
14 permitted by subdivision (f) of Section 110.1 for the period
15 subsequent to the sale of the original property. The base year or
16 years used to compute the “base year value of the original property”
17 shall be deemed to be the base year or years of any property to
18 which that base year value is transferred pursuant to this section.

19 (3) “Replacement dwelling” means a building, structure, or
20 other shelter constituting a place of abode, whether real property
21 or personal property, that is owned and occupied by a claimant as
22 his or her principal place of residence, and any land owned by the
23 claimant on which the building, structure, or other shelter is
24 situated. For purposes of this paragraph, land constituting a part
25 of a replacement dwelling includes only that area of reasonable
26 size that is used as a site for a residence, and “land owned by the
27 claimant” includes land for which the claimant either holds a
28 leasehold interest described in subdivision (c) of Section 61 or a
29 land purchase contract. Each unit of a multiunit dwelling shall be
30 considered a separate replacement dwelling. For purposes of this
31 paragraph, “area of reasonable size that is used as a site for a
32 residence” includes all land if any nonresidential uses of the
33 property are only incidental to the use of the property as a
34 residential site. For purposes of this paragraph, “land owned by
35 the claimant” includes an ownership interest in a resident-owned
36 mobilehome park that is assessed pursuant to subdivision (b) of
37 Section 62.1.

38 (4) “Original property” means a building, structure, or other
39 shelter constituting a place of abode, whether real property or
40 personal property, that is owned and occupied by a claimant as his

1 or her principal place of residence, and any land owned by the
2 claimant on which the building, structure, or other shelter is
3 situated. For purposes of this paragraph, land constituting a part
4 of the original property includes only that area of reasonable size
5 that is used as a site for a residence, and “land owned by the
6 claimant” includes land for which the claimant either holds a
7 leasehold interest described in subdivision (c) of Section 61 or a
8 land purchase contract. Each unit of a multiunit dwelling shall be
9 considered a separate original property. For purposes of this
10 paragraph, “area of reasonable size that is used as a site for a
11 residence” includes all land if any nonresidential uses of the
12 property are only incidental to the use of the property as a
13 residential site. For purposes of this paragraph, “land owned by
14 the claimant” includes an ownership interest in a resident-owned
15 mobilehome park that is assessed pursuant to subdivision (b) of
16 Section 62.1.

17 (5) “Equal or lesser value” means that the amount of the full
18 cash value of a replacement dwelling does not exceed one of the
19 following:

20 (A) One hundred percent of the amount of the full cash value
21 of the original property if the replacement dwelling is purchased
22 or newly constructed prior to the date of the sale of the original
23 property.

24 (B) One hundred and five percent of the amount of the full cash
25 value of the original property if the replacement dwelling is
26 purchased or newly constructed within the first year following the
27 date of the sale of the original property.

28 (C) One hundred and ten percent of the amount of the full cash
29 value of the original property if the replacement dwelling is
30 purchased or newly constructed within the second year following
31 the date of the sale of the original property.

32 For the purposes of this paragraph, except as otherwise provided
33 in paragraph (4) of subdivision (h), if the replacement dwelling is,
34 in part, purchased and, in part, newly constructed, the date the
35 “replacement dwelling is purchased or newly constructed” is the
36 date of purchase or the date of completion of construction,
37 whichever is later.

38 (6) “Full cash value of the replacement dwelling” means its full
39 cash value, determined in accordance with Section 110.1, as of
40 the date on which it was purchased or new construction was

1 completed, and after the purchase or the completion of new
2 construction.

3 (7) “Full cash value of the original property” means, either:

4 (A) Its new base year value, determined in accordance with
5 subdivision (e), without the application of subdivision (h) of
6 Section 2 of Article XIII A of the California Constitution, plus the
7 adjustments permitted by subdivision (b) of Section 2 of Article
8 XIII A and subdivision (f) of Section 110.1 for the period from the
9 date of its sale by the claimant to the date on which the replacement
10 property was purchased or new construction was completed.

11 (B) In the case where the original property has been substantially
12 damaged or destroyed by misfortune or calamity and the owner
13 does not rebuild on the original property, its full cash value, as
14 determined in accordance with Section 110, immediately prior to
15 its substantial damage or destruction by misfortune or calamity,
16 as determined by the county assessor of the county in which the
17 property is located, without the application of subdivision (h) of
18 Section 2 of Article XIII A of the California Constitution, plus the
19 adjustments permitted by subdivision (b) of Section 2 of Article
20 XIII A and subdivision (f) of Section 110.1, for the period from
21 the date of its sale by the claimant to the date on which the
22 replacement property was purchased or new construction was
23 completed.

24 (8) “Sale” means any change in ownership of the original
25 property for consideration.

26 (9) “Claimant” means any person claiming the property tax
27 relief provided by this section. If a spouse of that person is a record
28 owner of the replacement dwelling, the spouse is also a claimant
29 for purposes of determining whether in any future claim filed by
30 the spouse under this section the condition of eligibility specified
31 in paragraph (7) of subdivision (b) has been met.

32 (10) “Property that is eligible for the homeowners’ exemption”
33 includes property that is the principal place of residence of its
34 owner and is entitled to exemption pursuant to Section 205.5.

35 (11) “Person” means any individual, but does not include any
36 firm, partnership, association, corporation, company, or other legal
37 entity or organization of any kind.

38 (12) “Severely and permanently disabled” means any person
39 described in subdivision (b) of Section 74.3.

(13) For the purposes of this section property is “substantially damaged or destroyed by misfortune or calamity” if it sustains physical damage amounting to more than 50 percent of its full cash value immediately prior to the misfortune or calamity. Damage includes a diminution in the value of property as a result of restricted access to the property where the restricted access was caused by the misfortune or calamity and is permanent in nature.

(h) (1) Upon the timely filing of a claim described in subparagraph (F) of paragraph (1) of subdivision (f), the assessor shall adjust the new base year value of the replacement dwelling in conformity with this section. This adjustment shall be made as of the latest of the following dates:

(A) The date the original property is sold.

(B) The date the replacement dwelling is purchased.

(C) The date the new construction of the replacement dwelling is completed.

(2) Any taxes that were levied on the replacement dwelling prior to the filing of the claim on the basis of the replacement dwelling’s new base year value, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that the taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

(3) Notwithstanding Section 75.10, Chapter 3.5 (commencing with Section 75) shall be utilized for purposes of implementing this subdivision, including adjustments of the new base year value of replacement dwellings acquired prior to the sale of the original property.

(4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if both of the following conditions are met:

(A) The new construction is completed within two years of the date of the sale of the original property and the owner notifies the assessor in writing of completion of the new construction within 30 days after completion.

(B) The fair market value of the new construction on the date of completion, plus the full cash value of the replacement dwelling

1 on the date of acquisition, is not more than the full cash value of
2 the original property as determined pursuant to paragraph (7) of
3 subdivision (g) for purposes of granting the original claim.

4 (i) Any claimant may rescind a claim for the property tax relief
5 provided by this section and shall not be considered to have
6 received that relief for purposes of paragraph (7) of subdivision
7 (b), and the assessor shall grant the rescission, if a written notice
8 of rescission is delivered to the office of the assessor as follows:

9 (1) A written notice of rescission signed by the original filing
10 claimant or claimants is delivered to the office of the assessor in
11 which the original claim was filed.

12 (2) (A) Except as otherwise provided in this paragraph, the
13 notice of rescission is delivered to the office of the assessor before
14 the date that the county first issues, as a result of relief granted
15 under this section, a refund check for property taxes imposed upon
16 the replacement dwelling. If granting relief will not result in a
17 refund of property taxes, then the notice shall be delivered before
18 payment is first made of any property taxes, or any portion thereof,
19 imposed upon the replacement dwelling consistent with relief
20 granted under this section. If payment of the taxes is not made,
21 then notice shall be delivered before the first date that those
22 property taxes, or any portion thereof, imposed upon the
23 replacement dwelling, consistent with relief granted under this
24 section, are delinquent.

25 (B) Notwithstanding any other provision in this division, any
26 time the notice of rescission is delivered to the office of the assessor
27 within six years after relief was granted, provided that the
28 replacement property has been vacated as the claimant's principal
29 place of residence within 90 days after the original claim was filed,
30 regardless of whether the property continues to receive the
31 homeowners' exemption. If the rescission increases the base year
32 value of a property, or the homeowners' exemption has been
33 incorrectly allowed, appropriate escape assessments or
34 supplemental assessments, including interest as provided in Section
35 506, shall be imposed. The limitations periods for any escape
36 assessments or supplemental assessments shall not commence until
37 July 1 of the assessment year in which the notice of rescission is
38 delivered to the office of the assessor.

39 (3) The notice is accompanied by the payment of a fee as the
40 assessor may require, provided that the fee shall not exceed an

1 amount reasonably related to the estimated cost of processing a
2 rescission claim, including both direct costs and developmental
3 and indirect costs, such as costs for overhead, personnel, supplies,
4 materials, office space, and computers.

5 (j) (1) With respect to the transfer of base year value of original
6 properties to replacement dwellings located in the same county,
7 this section, except as provided in paragraph (3) or (4), shall apply
8 to any replacement dwelling that is purchased or newly constructed
9 on or after November 6, 1986.

10 (2) With respect to the transfer of base year value of original
11 properties to replacement dwellings located in different counties,
12 except as provided in paragraph (4), this section shall apply to any
13 replacement dwelling that is purchased or newly constructed on
14 or after the date specified in accordance with subparagraph (E) of
15 paragraph (2) of subdivision (a) in the ordinance of the county in
16 which the replacement dwelling is located, but shall not apply to
17 any replacement dwelling which was purchased or newly
18 constructed before November 9, 1988.

19 (3) With respect to the transfer of base year value by a severely
20 and permanently disabled person, this section shall apply only to
21 replacement dwellings that are purchased or newly constructed on
22 or after June 6, 1990.

23 (4) The amendments made to subdivision (e) by the act adding
24 this paragraph shall apply only to replacement dwellings under
25 Section 69 that are acquired or newly constructed on or after
26 October 20, 1991, and shall apply commencing with the 1991–92
27 fiscal year.

28 (k) (1) In the case in which a county adopts an ordinance
29 pursuant to paragraph (2) of subdivision (a) that establishes an
30 applicable date which is more than three years prior to the date of
31 adoption of the ordinance, those potential claimants who purchased
32 or constructed replacement dwellings more than three years prior
33 to the date of adoption of the ordinance and who would, therefore,
34 be precluded from filing a timely claim, shall be deemed to have
35 timely filed a claim if the claim is filed within three years after the
36 date that the ordinance is adopted. This paragraph may not be
37 construed as a waiver of any other requirement of this section.

38 (2) In the case in which a county assessor corrects a base year
39 value to reflect a pro rata change in ownership of a resident-owned
40 mobilehome park that occurred between January 1, 1989, and

1 January 1, 2002, pursuant to paragraph (4) of subdivision (b) of
2 Section 62.1, those claimants who purchased or constructed
3 replacement dwellings more than three years prior to the correction
4 and who would, therefore, be precluded from filing a timely claim,
5 shall be deemed to have timely filed a claim if the claim is filed
6 within three years of the date of notice of the correction of the base
7 year value to reflect the pro rata change in ownership. This
8 paragraph may not be construed as a waiver of any other
9 requirement of this section.

10 (3) This subdivision does not apply to a claimant who has
11 transferred his or her replacement dwelling prior to filing a claim.

12 (4) The property tax relief provided by this section, but filed
13 under this subdivision, shall apply prospectively only, commencing
14 with the lien date of the assessment year in which the claim is
15 filed. There shall be no refund or cancellation of taxes prior to the
16 date that the claim is filed.

17 (l) No escape assessment may be levied if a transfer of base
18 year value under this section has been erroneously granted by the
19 assessor pursuant to an expired ordinance authorizing intercounty
20 transfers of base year value.

21 (m) (1) The amendments made to subdivisions (b) and (g) of
22 this section by Chapter 613 of the Statutes of 2001 shall apply:

23 (A) With respect to the transfer of base year value of original
24 properties to replacement dwellings located in the same county,
25 to any replacement dwelling that is purchased or newly constructed
26 on or after November 6, 1986.

27 (B) With respect to the transfer of base year value of original
28 properties to replacement dwellings located in different counties,
29 to any replacement dwelling that is purchased or newly constructed
30 on or after the date specified in accordance with subparagraph (E)
31 of paragraph (2) of subdivision (a) in the ordinance of the county
32 in which the replacement dwelling is located, but not to any
33 replacement dwelling that was purchased or newly constructed
34 before November 9, 1988.

35 (C) With respect to the transfer of base year value by a severely
36 and permanently disabled person, to replacement dwellings that
37 are purchased or newly constructed on or after June 6, 1990.

38 (2) The property tax relief provided by this section in accordance
39 with this subdivision shall apply prospectively only commencing
40 with the lien date of the assessment year in which the claim is

1 filed. There shall be no refund or cancellation of taxes prior to the
2 date that the claim is filed.

3 (n) A claim filed under this section is not a public document
4 and is not subject to public inspection, except that a claim shall be
5 available for inspection by the ~~transferee and the transferor~~
6 ~~claimant or their respective~~ *the claimant's spouse, the transferee's*
7 *claimant's or the claimant's spouse's* legal representative, ~~the~~
8 ~~transferor's legal representative~~ *the trustee of a trust in which the*
9 *claimant or the claimant's spouse is a present beneficiary*, and the
10 executor or administrator of the ~~transferee's or transferor's~~
11 ~~claimant's or the claimant's spouse's~~ estate.

12 SEC. 3. Section 215.1 of the Revenue and Taxation Code is
13 amended to read:

14 215.1. (a) All buildings, and so much of the real property on
15 which the buildings are situated as may be required for the
16 convenient use and occupation of ~~said the~~ buildings, used
17 exclusively for charitable purposes, owned by a veterans'
18 organization which has been chartered by the Congress of the
19 United States, organized and operated for charitable purposes,
20 when the same are used solely and exclusively for the purpose of
21 ~~such the~~ organization, if not conducted for profit and no part of
22 the net earnings of which inures to the benefit of any private
23 individual or member thereof, shall be exempt from taxation.

24 ~~The~~

25 (b) *The* exemption provided for in this section shall apply to the
26 property of all organizations meeting the requirements of this
27 section and subdivision (b) of Section 4 of Article XIII of the
28 California Constitution and paragraphs (1) to (7), inclusive, of
29 subdivision (a) of Section 214.

30 ~~This~~

31 (c) *An organization that files a claim for the exemption provided*
32 *for in this section shall file with the assessor a valid organizational*
33 *clearance certificate issued pursuant to Section 254.6.*

34 (d) *This* exemption shall be known as the "veterans' organization
35 exemption."

36 SEC. 4. If the Commission on State Mandates determines that
37 this act contains costs mandated by the state, reimbursement to
38 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O